IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 30TH MARCH 2007 / 9TH CHAITHRA 1929

Crl.Rev.Pet.No. 924 of 1999()

CRA.23/1997 of II ADDL.SESSIONS COURT, ERNAKULAM
CC.96/1992 of JUDL.MAGISTRATE OF FIRST CLASS, PERUMBAVOOR

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REVN. PETITIONER:

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1. MOHANAN @ RAJU,
S/O. SADANANDAN, MANULLY PADAM VEEDU,
ALAPPATTU CROSS ROAD, ERNAKULAM,
COCHIN -16.

2. VARGHESE,
S/O. VARKEY, THAKKINAL VEEDU,
KOLLAMKODU, BHAGAM, AYYAMPUZHA VILLAGE.

BY ADV. SRI.R.DIVAKARAN

RESPONDENTS:

STATE OF KERALA REPRESENTED BY
SUB INSPECTOR OF POLICE,
PERUMBAVOOR THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI. AMJAD ALI, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 30/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL. M.P. NO. 4258/1999 IN CRL. R.P. NO. 924/1999

DISMISSED

30.03.2007 SD/- K.R. UDAYABHANU, JUDGE

/True Copy/

P.A to Judge.

K.R. UDAYABHANU, J

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CRL. R.P. NO. 924 OF 1999

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Dated this the 30th day of March 2007

O R D E R

The revision petitioners are the accused in C.C No.96/1992 who stand convicted for the offence under Section 380 r/w Section 34 of the Indian Penal Code and sentenced to undergo simple imprisonment for two years. The pre trial detention period was set off vide section 428 IPC.

2. The prosecution case is that on 06.09.1991 at 11.30 p.m the accused committed theft of jeep No. K.C.F.2436 from the car porch of PW1. It is the version that the accused pushed the jeep to outside the porch and using the key drove away the vehicle. It is the case that subsequently the accused were arrested by Tamil Nadu police while they were found sleeping in the jeep. The evidence adduced in the matter consisted of the testimony of PWs 1 to 11 and Exts. P1 to P5. CW8, Sub Inspector of Police of Tamil Nadu who arrested the accused, was not examined. PWs 9 and 10, the revenue officials of Ulanthoor Petta who attested the

seizure mahazar could not identify the accused. PW8, the Circle Inspector of Police who investigated the case, has just stated that on receiving information he took custody of the jeep and the accused. But, he has not produced any documents in this regard. The evidence of PWs 1 to 4 of whom PW4, the neighbour who has witnessed the accused pushing the jeep outside the compound and driving it away, did not identify the accused.

3. On a perusal of the evidence adduced in the matter, I find that there is absolutely no evidence to the identity of the accused. In the circumstances, the prosecution has failed to prove beyond reasonable doubt that the accused are the persons who committed the theft of the jeep. In the circumstances, the conviction and sentence are set aside. The accused are acquitted.

The Crl.R.P is allowed accordingly.

K.R. UDAYABHANU, JUDGE.

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